

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In the Matter:	:	Case No. 11-58690
Carol Lee Gramlich	:	Chapter 13 (Judge Caldwell)
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Debtor	:	
Carol Lee Gramlich	:	
3533 Eisenhower Rd.	:	
Columbus, OH 43224	:	
Plaintiff,	:	Adv. Proc. No. 12-02199
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v.	:	
Partners for Payment Relief DE III Inc.	:	
3748 West Chester Pike, Suite 103	:	
Newtown Square, PA 19073	:	
Defendant.	:	

AMENDED COMPLAINT TO AVOID MORTGAGE

1. Plaintiff states that a petition for relief pursuant to Chapter 13 of The United States Bankruptcy Code was filed on August 23, 2011.
2. This Court has jurisdiction to determine this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the general order of reference entered in this district. Debtor states that this is a core proceeding under 28 U.S.C. §157(b)(2)(I). Venue is proper under 28 U.S.C. § 1409(a).
3. Plaintiff states that the Chapter 13 Trustee holds the position of a lien creditor with rights of a bona fide purchaser of real property pursuant to the provisions of 11 U.S.C. § 544(a)(3).
4. Plaintiff states that the Mandatory Chapter 13 Form Plan effective October 23, 2007 and revised April 17, 2008 gives the Debtor "standing and authority to file the motion or adversary proceeding; to the extent that the Trustee has standing to bring such action, standing is hereby assigned to Debtor."
5. Plaintiff states own the real estate located at 3533 Eisenhower Rd., Columbus, OH 43224 more fully described as follows:

SITUATED IN THE COUNTY OF FRANKLIN, IN THE STATE OF OHIO AND IN THE CITY OF COLUMBUS:

BEING LOT NUMBER SEVEN (7) OF BOYD MARTIN SUBDIVISION, AS THE SAME IS NUMBERED AND DELINEATED UPON THE RECORDED PLAT THEREOF, OF RECORD IN PLAT BOOK 23, PAGE 12, RECORDER'S OFFICE, FRANKLIN COUNTY OHIO.

BEING THE SAME PROPERTY CONVEYED TO CAROL L. GRAMLICH BY DEED FROM STEVEN T. KELLER, MARRIED RECORDED 01/07/1997 INSTRUMENT NUMBER 34019H11, IN THE RECORDER'S OFFICE OF FRANKLIN COUNTY, OHIO.

PARCEL NUMBER: 010-096267

ADDRESS: 3533 EISENHOWER RD., COLUMBUS, OH 43224

6. Plaintiff states disclosed said real estate on Schedule A, which has a fair market appraised value of \$45,500.00 (Exhibit A).

7. Plaintiff states that the residential real estate is subject to a first mortgage lien to Wells Fargo Bank N.A. recorded in the Franklin County Recorder's Office on September 5, 2003 (Instrument No. 200309060282641) with an approximate outstanding balance of \$79,183.64 (Exhibit B).
8. Plaintiff that the residential real estate is subject to a second mortgage lien to Partners for Payment Relief DE III Inc. recorded in the Franklin County Recorder's Office on April 11, 2006 (Instrument No. 200604110067796) with an approximate outstanding balance of \$65,946.63 (Exhibit C).
9. This mortgage was originally held by Summit Mortgage, but was assigned to Payment Relief DE III Inc. on August 25, 2011, Instrument Number 201108250106103 (Exhibit C).
10. Plaintiff states that the mortgage lien of Partners for Payment Relief DE III Inc. is junior to the superior lien of Wells Fargo Bank N.A.
11. Plaintiff states that there exists insufficient equity in the residential real estate to deem Partners for Payment Relief DE III Inc. as secured.
12. Plaintiff states that pursuant to the pertinent provisions of 11 U.S.C. § 506(a) and 506(d) as made applicable in this case by 11 U.S.C. § 1325(a)(5), Partners for Payment Relief DE III Inc. is not the holder of a secured claim as that term is defined in the United States Bankruptcy Code § 506(a).

WHEREFORE, the Plaintiff demands that:

1. The mortgage lien of Partners for Payment Relief DE III Inc. , which is recorded as Instrument No. 200604110067796 in the Franklin County Ohio Recorder's Official Records on April 11, 2006 be found to be VOID and that the Court order the mortgage to be released and forever discharged;
2. The mortgage of Partners for Payment Relief DE III Inc. be deemed an unsecured debt;
3. For such further relief that the Court finds just and equitable.

Respectfully submitted,

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April 13, 2012
Date